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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,292	03/10/2004	John M. Lohman	IRW02 P-315	4420
28101 7590 03/22/2007 VAN DYKE, GARDNER, LINN AND BURKHART, LLP 2851 CHARLEVOIX DRIVE, S.E. P.O. BOX 888695 GRAND RAPIDS, MI 49588-8695			EXAMINER GILBERT, WILLIAM V	
			ART UNIT	PAPER NUMBER

3635

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/797,292	LOHMAN ET AL.	
	Examiner	Art Unit	
	William V. Gilbert	3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-26 is/are allowed.
- 6) ☒ Claim(s) 1,6-9,11-13,15,16,27-29 and 31 is/are rejected.
- 7) ☒ Claim(s) 2-5,10,14 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>11/29/06;10/08/04;10/05/04</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This is a First Action on the Merits. Claims 1-31 are pending and examined below.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 6-9, 11-13, 15, 16, 27-29 and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Lyman, Jr. (U.S. Patent No. 4,571,895)

Claim 1: Lyman discloses an extendable deck assembly with a base portion with a lower surface (Fig. 1: floor), opposite walls (48), and a cover plate (Fig. 4: 14), the cover plate extends across and between the opposite walls and forming a cavity, a deck portion (Fig. 4: 56) extendable and retractable within the cavity, and a support assembly (Fig. 1: 24, 34) in the cavity of the base having a fixed end attached to the base and a movable end attached to the deck, and at least one movable

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support (32) engagable with the lower surface and the cover plate.

Claim 6: a locking member (50) to prevent retraction of the deck portion.

Claim 7: the locking member is a handrail positionable along the deck portion and engagable with the deck portion (see 62).

Claim 8: the phrase "configured to engage...said deck portion" lines 1-3 is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 9: the deck portion is extendable and retractable relative to the base portion via rollers (32) on the sidewall of the deck portion (Fig. 1: proximate 50) and engaging a rail (30) on the other of the sidewall of the base.

Claim 11: Lyman discloses a method of extending a deck portion by providing a base portion with a lower surface (floor), opposite walls (48) and cover plate (14), providing a deck portion (56), the cover plate is supported by the deck portion when retracted, and extending the deck portion and

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supporting said cover plate of the base portion with a movable support assembly (24, 34).

Claim 12: supporting the cover plate comprises supporting the plate with a movable support assembly arranged in the cavity of the base, and the movable assembly is engagable with the lower surface of the base portion (floor) and cover plate (14).

Claim 13: the cover plate comprises supporting the plate with a wheeled support assembly (32).

Claim 15: the deck portion will be locked when in the extended position.

Claims 16 and 28: the side rail assembly (62) can lock the deck portion relative to the base, and the rail is between the deck and base.

Claim 27: Lyman discloses a deck assembly having a base portion with a lower surface, opposite walls and a cover plate, a deck portion (56) and a support assembly (24, 34) having a movable support movable relative to the base and extendable and retractable with the deck portion that can support the cover plate, and a locking assembly (62) for limiting retraction of the deck relative to the base portion.

Claim 29: the guardrail assembly is adjustable to be positioned at least partially along the side of the deck portion and toward the base portion.

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Claim 31: the deck portion at least partially supports the cover plate when the deck portion is retracted.

Allowable Subject Matter

2. Claims 2-5, 10, 14 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 2 and 14: the prior art of record does not disclose an upper and lower roller. Claims 3-5 depend from Claim 2.

Claim 10: the prior art of record does not disclose the sidewalls and lower surface of the base portion are concrete.

Claims 17-26 are allowed.

Claim 17: the prior art of record does not disclose an upper and lower roller. Claims 18-26 depend from Claim 17.

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Wiese (U.S. Patent No. 4,361,991); McArthur (U.S. Patent No. 6,212,828); Kempf (U.S. Patent No. 5,375,962); Lyons (U.S. Patent No.

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6,050,366); Scaggs (U.S. Patent No. 3,608,251); Victor (U.S. Patent No. 6,324,790); Nixon (U.S. Patent No. 2,888,182).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571.272.6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Barry Kell
3/16/02

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

WVG *25th*
16 Mar 07